

# DECLARING PORTION OF JAMES RIVER AND KANAWHA CANAL TO BE NONNAVIGABLE

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1034) to declare a portion of the James River and Kanawha Canal in Richmond, Virginia, to be nonnavigable waters of the United States for purposes of title 46, United States Code, and other maritime laws of the United States, as amended.

The Clerk read as follows:

H.R. 1034

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. FINDINGS.

*The Congress finds the following:*

(1) The canal known as the James River and Kanawha Canal played an important part in the economic development of the Commonwealth of Virginia and the city of Richmond.

(2) The canal ceased to operate as a functioning waterway in the conduct of commerce in the late 1800s.

(3) Portions of the canal have been found by a Federal district court to be nonnavigable.

(4) The restored portion of the canal will be utilized to provide entertainment and education to visitors and will play an important part in the economic development of downtown Richmond.

(5) The restored portion of the canal will not be utilized for general public boating, and will be restricted to activities similar to those conducted on similar waters in San Antonio, Texas.

(6) The continued classification of the canal as a navigable waterway based upon historic usage that ceased more than 100 years ago does not serve the public interest and is unnecessary to protect public safety.

(7) Congressional action is required to clarify that the canal is no longer to be considered a navigable waterway for purposes of subtitle II of title 46, United States Code.

## SEC. 2. DECLARATION OF NONNAVIGABILITY OF A PORTION OF THE CANAL KNOWN AS THE JAMES RIVER AND KANAWHA CANAL IN RICHMOND, VIRGINIA.

(a) CANAL DECLARED NONNAVIGABLE.—The portion of the canal known as the James River and Kanawha Canal in Richmond, Virginia, located between the Great Ship Lock on the east and the limits of the city of Richmond on the west is hereby declared to be a nonnavigable waterway of the United States for purposes of subtitle II of title 46, United States Code.

(b) ENSURING PUBLIC SAFETY.—The Secretary of Transportation shall provide such technical advice, information, and assistance as the city of Richmond, Virginia, or its designee may request to insure that the vessels operating on the waters declared nonnavigable by subsection (a) are built, maintained, and operated in a manner consistent with protecting public safety.

### (c) TERMINATION OF DECLARATION.—

(1) IN GENERAL.—The Secretary of Transportation may terminate the effectiveness of the declaration made by subsection (a) by publishing a determination that vessels operating on the waters declared nonnavigable by subsection (a) have not been built, maintained, and operated in a manner consistent with protecting public safety.

(2) PUBLIC INPUT.—Before making a determination under this subsection, the Secretary of Transportation shall—

(A) consult with appropriate State and local government officials regarding whether such a determination is necessary to protect public safety and will serve the public interest; and

(B) provide to persons who might be adversely affected by the determination the opportunity for comment and a hearing on whether such action is necessary to protect public safety and will serve the public interest.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from Mississippi (Mr. TAYLOR) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1034, a bill to declare a portion of the historic canal system in Richmond, Virginia, to be nonnavigable for purposes of subtitle II of title 46, United States Code.

The Richmond canal system is part of a waterfront economic development project undertaken by the city of Richmond. This bill will allow the city to offer boat tours on the canal and to bring economic opportunities to downtown Richmond. The Coast Guard has reviewed the city's plans for the boat tours and has found no safety problems with the operation.

This bill reflects a bipartisan agreement worked out with the city of Richmond. It provides additional safety oversight of the Richmond Canal if that becomes necessary in the future. The gentleman from Virginia (Mr. BLILEY) is the primary author of this bill. It is through his leadership that we are here today. I certainly commend him for his tenacity in getting us to bring this legislation to the floor. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TAYLOR of Mississippi. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 1034, a bill to designate a portion of the James River and Kanawha Canal in Richmond as nonnavigable for purposes of subtitle II of title 46, United States Code.

Mr. Speaker, this is a very non-controversial bill. Its purpose is to allow the city of Richmond to regulate safety on this small body of water instead of the United States Coast Guard. The Kanawha Canal is about 1 mile long and 23 feet wide, with an average depth of 3 feet. As part of an urban renewal project, the city is going to have small boats taking passengers up and down the canal. This legislation will allow the city of Richmond to regulate the safety of the passengers on those vessels. If the Coast Guard finds that the vessels operated on these waters are built, maintained, or operated in a manner that does not protect the public, then the United States Coast Guard can revoke the nonnavigability determination and subject all of the vessels operating on the canal to full Coast Guard inspection and licensing of

personnel. Because of the Coast Guard's safety expertise, the city of Richmond has committed to consulting with the Coast Guard before allowing any material changes to the construction, maintenance or operation of these vessels.

Mr. Speaker, I believe that this bill adequately balances the desire to promote tourism in Richmond with the need to ensure the vacationing public a safe boating experience on this canal. Therefore, Mr. Speaker, I urge my colleagues to support passage of H.R. 1034.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. BLILEY), the author of this legislation.

Mr. BLILEY. Mr. Speaker, I rise today in support of H.R. 1034, a bill I introduced with the gentleman from Virginia (Mr. SCOTT) to declare a portion of the James River and Kanawha Canal nonnavigable for purposes of subtitle II of title 46 of the U.S. Code.

The city of Richmond along with Richmond's Riverfront Management Corporation, a nonprofit group of local business and community leaders, have been working for several years to redevelop downtown Richmond. Their local historic preservation efforts will promote much needed economic development in Richmond's historic downtown and serve as a boost to tourism in Shockoe Slip and along the Richmond Canal front.

The focal point of this renaissance is a Canal Walk along the Haxall and James River and Kanawha Canals. The city of Richmond and Riverfront Management Corporation hope to operate boat rides for tourists on the canals.

Despite being filled in with dirt for 50 years, the canal was considered a navigable waterway and under Coast Guard jurisdiction because of its past use, over 100 years ago, in interstate commerce. The James River and Kanawha Canal ceased to be used for interstate commerce in the 1880s. The Haxall is already nonnavigable because it originated as a millrace.

This is not a major waterway. The canal, as the gentleman from Mississippi pointed out, averages a depth of 3 feet. At one point it is only 24 inches deep. It has a width of approximately 23 feet. It is a controlled channel with a constant water surface elevation and water velocity.

The city of Richmond sought the oversight responsibility for the James River and Kanawha Canal, and Richmond's Mayor Tim Kaine has written me and the gentleman from Virginia (Mr. SCOTT) to ensure us the city takes its obligation in protecting public safety seriously.

Mr. Speaker, I include copies of the two letters from the mayor in the RECORD at this point.

CITY OF RICHMOND,  
Richmond, VA, April 13, 1999.

Hon. THOMAS J. BLILEY,  
Hon. ROBERT C. SCOTT,  
Rayburn House Office Building,  
Washington, DC.

DEAR MESSRS. BLILEY AND SCOTT: I want to express my appreciation on behalf of the City of Richmond to you for introducing H.R. 1034 to declare the James River and Kanawha Canal non-navigable. The time and energy that you and your respective staffs have given on behalf of this important economic development project are greatly appreciated.

I am writing to address certain concerns that have been raised by members of the Committee on Transportation and Infrastructure professional staff regarding the operation of canal boats on the James River & Kanawha Canal. As you know, members of your staffs and the committee visited Richmond yesterday to gain a first hand understanding of what this project entails.

The staff has expressed a desire to have a fuller understanding of the actions the City of Richmond will take after the canal is declared non-navigable to insure that boats operated on the canal are built, maintained and operated in a manner that will insure public safety. As you know, the Coast Guard has reviewed the design of the boats that will be used on this canal and found the design suitable for a passenger load of up to 40 people. The Coast Guard has also reviewed other aspects of the planned operation. As I understand it, the staff is not concerned with the operations as planned, but is seeking some assurance of how the city will address changes in operation that may be proposed at some time in the future.

It would be the city's intention to require that it receive notification from its franchisee (i.e. the Riverfront Management Corporation), of any material changes in the design or operation of canal boats on the James River & Kanawha Canal. The city would then utilize the provisions of section 2(b) of the current draft of legislation to seek advice and assistance from the Secretary of Transportation to enable the city to determine whether or not the proposed changes in operation or boat design were consistent with protecting public safety. The city would then exercise its authority under existing law to take appropriate action.

The city takes its obligation to protect public safety seriously and will make appropriate use of local, state, federal, and private sector expertise to insure that this project is operated consistent with protecting public safety. The canal redevelopment is of vital importance to the economic development of Richmond. The project is nearing completion and prompt passage of legislation is necessary.

I hope this letter will serve to clarify the manner in which the city plans to proceed once these waters are declared non-navigable.

Sincerely,

TIMOTHY M. KAINE, Mayor.

CITY OF RICHMOND,  
Richmond, VA, April 20, 1999.

Hon. THOMAS J. BLILEY, JR.,  
House of Representatives,  
Washington, DC.

DEAR CONGRESSMAN BLILEY: It was a pleasure speaking with you on Monday concerning the renovation and reopening of Richmond's Historic Canal System. We certainly appreciate your efforts to assist us with the Coast Guard regulation of the canal.

As we discussed, I will introduce an ordinance on Monday, April 26 mandating that the canal boats will carry no more than 40 passengers during operation. I expect that this ordinance will not encounter any opposition and should be passed at our meeting on May 10. Once the ordinance is passed, I will send a copy to you for appropriate distribution.

Thank you so much for assistance on this matter. We have waited a long time to reopen this historic resource and it will be a great benefit to generations of Richmonders.

Sincerely,

TIMOTHY M. KAINE, Mayor.

Mayor Kaine has also introduced an ordinance in the city council limiting the number of boat passengers to 40 in accordance with approved boat capacity by the Coast Guard. The city welcomes this responsibility and I believe has more than demonstrated their commitment to ensuring a safe and enjoyable boat ride for Canal Walk visitors.

It should be noted this bill does not waive Federal, environmental or labor laws. It also ensures that safety regulations are in place and gives the Secretary of Transportation the authority to revoke the nonnavigable designation if the Secretary determines the tour boat concessions are not being operated in the interest of public safety.

H.R. 1034 gives the city of Richmond the freedom to continue its efforts to rejuvenate an historic part of the city, bringing renewed economic opportunity to downtown Richmond and a new historical perspective for the enjoyment of tourists and Richmonders alike.

I thank the gentleman from Pennsylvania (Mr. SHUSTER), the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Virginia (Mr. SCOTT) for their efforts in working to produce a common-sense bipartisan bill. I urge its swift passage by the House.

Mr. TAYLOR of Mississippi. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the bill, H.R. 1034, which I have cosponsored with the gentleman from Virginia (Mr. BLILEY). The legislation, H.R. 1034, declares a portion of the James River and Kanawha Canal in Richmond, Virginia, between the Great Ship Lock on the east and the city limits on the west as nonnavigable waters. The bill gives jurisdiction and authority of the canal to the city of Richmond for the purpose of operating boats along the canal adjacent to downtown Richmond.

□ 1515

In the late 19th century the canal was used to transport commerce from other parts of Virginia on the James River and into the canal. The canal was eventually closed, and, as has been said, filled with dirt for many years. In 1973, a federal judge declared parts of

the waterway nonnavigable. Nevertheless, due to its former use, to move commerce along the river, the Coast Guard has maintained that the canal has retained its technical classification as a navigable waterway.

Now the City of Richmond has redeveloped the area with Canal Walk, a project that will revitalize the area along the James River and Kanawha Canal. The canal, as has been stated, averages 3 feet in depth and has a width of approximately 23 feet when it opens, the city will use canal boats as a major attraction to draw tourists to the restored area of the river. The Canal Walk is expected to generate thousands of visitors who will enjoy numerous attractions and seasonal activities along the James River and Kanawha Canal, and it will play a valuable role in the revitalization of the river front.

This legislation makes clear that the City of Richmond may operate the boats on the canal with a number of accepted requirements and standards that will satisfy public safety concerns of Federal, State and local regulators. I would like to thank the gentleman from Pennsylvania (Mr. SHUSTER), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Oregon (Mr. DEFazio), the gentleman from Maryland (Mr. GILCHREST) and the gentleman from Mississippi (Mr. TAYLOR) for working in cooperation with the gentleman from Virginia (Mr. BLILEY) and myself in such an expeditious and bipartisan manner. H.R. 1034 has gained the unanimous support of the House Committee on Transportation, and I urge its acceptance by the House.

Mr. TAYLOR of Mississippi. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), the ranking minority member of the committee.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding this time to me. I, too, rise in support of H.R. 1034.

Mr. Speaker, I had concerns originally about this legislation as introduced, but those concerns have been addressed by an amendment offered by the gentleman from Pennsylvania (Mr. SHUSTER) during committee consideration of the bill. My primary concern was that the purpose of the introduced bill was to exempt vessels that would be operating on this stretch of the canal from all Coast Guard safety laws. Now these vessels would be transporting up to 35 passengers up and down the canal for admittedly a very limited distance, but those passengers would include small children, elderly persons, people in wheelchairs.

I was concerned also that the bill would exempt vessels from all other maritime laws of the United States, including the Jones Act and marine pollution laws, from my standpoint, a very unwelcomed precedent. In ordinary conduct of business the public has

a right to expect that vessels they board will be safe, that is laws of the United States under which vessels operate will protect them.

Mr. Speaker, the primary purpose of these vessels is to serve the cause of tourism, and I am a very strong supporter of tourism. I chaired the Congressional Travel and Tourism Caucus for several years and advocated tourism. I want to see developments of this kind take place. This is a very ambitious, a very attractive waterfront development in the City of Richmond, which indeed started under the aegis of the gentleman from Virginia (Mr. BLILEY) when he was mayor there.

So I met with the gentleman from Virginia, and I expressed to him my concerns about the rather overly broad sweep of the language and was satisfied that the consequences of that language were not intended by any means by the gentleman from Virginia, nor the other gentleman from Virginia (Mr. SCOTT) who was the principle co-author of this legislation, and after rather extensive discussion, we came to a very clear meeting of the minds, that adjustments should be made. The gentleman went back to his City of Richmond, talked with the mayor and city council and came back with a narrowing of the scope of the bill so that the designation as nonnavigable applies to a very much smaller and narrower set of Coast Guard laws.

Second, the language provides for the Coast Guard to revoke the designation and make the vessels operating on the canal subject to safety regulations if the vessels are not built, maintained and operated in a manner consistent with public safety, the City of Richmond will be primarily responsible for ensuring that the vessels are operated safely, and third, the gentleman from Virginia (Mr. BLILEY) also worked out with the City of Richmond an agreement to consult with the Coast Guard before allowing any material change in the operation of the vessels on the canal. So the city is the primary line of defense and responsibility for public safety and common wifld.

The Mayor of Richmond, in fourth place, has agreed to introduce a city ordinance restricting the carrying capacity of these vessels to 40 people, the maximum allowed under Coast Guard guidelines and recommendations.

Mr. Speaker, I think these four changes make this a very acceptable bill. I know it took a good deal of effort on the part of both the principle author and the co-author of the legislation to make these adjustments, but they are in the best public interest, and I appreciate their cooperation. I think the public will appreciate their concern and action on behalf of safety, and certainly we should all rest assured that the traveling public will have a very safe medium in which to enjoy the pleasures and the extraordinary his-

tory of this beautiful City of Richmond.

Mr. TAYLOR of Mississippi. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 1034, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1034, as amended, the bill just passed.

The SPEAKER pro tempore (Mr. STEARNS). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

#### EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO THE TRAGIC SHOOTING AT COLUMBINE HIGH SCHOOL IN LITTLETON, COLORADO

Mr. TANCREDO. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H.Con.Res. 92) expressing the sense of Congress with respect to the tragic shooting at Columbine High School in Littleton, Colorado.

The Clerk read as follows:

H. CON. RES. 92

Whereas on April 20, 1999, two armed gunmen opened fire at Columbine High School in Littleton, Colorado, killing 12 students and 1 teacher and wounding more than 20 others; and

Whereas local, State, and Federal law enforcement personnel performed their duties admirably and risked their lives for the safety of the students, faculty, and staff at Columbine High School: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress—*

(1) condemns, in the strongest possible terms, the heinous atrocities which occurred at Columbine High School in Littleton, Colorado;

(2) offers its condolences to the families, friends, and loved ones of those who were killed at Columbine High School and ex-

presses its hope for the rapid and complete recovery of those wounded in the shooting;

(3) applauds the hard work and dedication exhibited by the hundreds of local, State, and Federal law enforcement officials and the others who offered their support and assistance; and

(4) encourages the American people to engage in a national dialogue on preventing school violence.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. TANCREDO) and the gentlewoman from New York (Mrs. MCCARTHY) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the veneer that separates civilization from barbarism, that separates good from evil, is very thin, and it appears everywhere to be wearing thinner. Last week it wore through in my hometown, and the evil seeped out and stole the lives of 12 innocent children and one valiant teacher at Columbine High School. Mr. Speaker, yesterday my son Ray gave me something he had written in response to this tragedy. I believe it is not just fatherly pride that compels me to read parts of it here today. I believe he eloquently captures the nature of the cultural abrasives that ever so relentlessly eat away at our national soul, and I would like to cite just a part of it:

"Do you believe in God?" "Yes, I believe in God."

"Seventeen year old Cassie Bernal's life ended with that answer. Our answers to the Columbine High School murders begin with the same question, and our answer must be the same as Cassie Bernal or the nihilistic fury unleashed by those two young murderers will surely prevail."

People search for meaning in these brutal senseless acts. People question the norms of a society in which monstrous violence can be countenanced. People question the righteousness, even the existence of a God who can allow such pain and violence into the world. These are valid, but unanswerable questions.

We can speculate and hypothesize, we can blame and vent, but in the end we know we cannot fathom the meaning of this event or presume to comprehend this evil. Nevertheless, our choice is stark: Do we believe in God or not? An answer to that question is the whole of what we take away from the Columbine massacre, for the answer means everything.

We either coast in the cultural currents of a facile nihilism, or we embrace God on our knees and pray for His grace and forgiveness. Nihilism or God, that is the choice. The comfortable in-between is now gone.

In reporting on Adolph Eichmann's 1960 trial in Jerusalem, philosopher Hannah Arendt noted the banality of